

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:05CR239**

**UNITED STATES OF AMERICA,**

**Vs.**

**EDWARD PORTA,**

**Defendant.**

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**ORDER**

THIS CAUSE coming on to be heard and being heard before the undersigned, Dennis L. Howell, United States Magistrate Judge for the Western District of North Carolina, pursuant to an order issued by the undersigned and filed on March 29, 2006, and it appearing to the court at the call of this matter on for hearing that the defendant was present with his counsel, Andrew Banzhoff, and that the government was present through Assistant United States Attorney Richard Edwards and from the evidence offered and from the statements of the United States Attorney and the attorney for the defendant and the records in this cause, the undersigned makes the following findings of fact:

**Findings.** On March 29, 2006 the undersigned entered an order releasing the defendant from condition (7)(q) of the terms and conditions of pretrial release and inserted instead other conditions of pretrial release of the defendant. The essence of the order was to release the defendant temporarily from electronic monitoring. In the **discussion** portion of the order, the undersigned stated:

“The defendant is urged to obtain a residence which will allow electronic monitoring immediately and is further urged to consider contacting public housing agencies and residents in a mobile home park to obtain such a residence arrangement.”

In the portion of the order setting forth the court's order, the court set forth the following:

"This matter shall be set for hearing on April 10, 2006 to determine if the defendant has obtained a residence suitable for electronic monitoring."

At the call of this matter on for hearing the defendant's counsel advised the court that he had not noticed in the order the above referenced statements and that he had understood that the court had, in the order filed March 29<sup>th</sup>, released the defendant from electronic monitoring without any type of review. After hearing these statements, the undersigned determined to continue the hearing of this matter until Monday, April 17, 2006. All conditions of pretrial release as set forth in the order of March 29, 2006 and the order of pretrial release filed on June 14, 2005, not modified, shall remain in full force and effect. If the defendant has not obtained a residence which would be suitable for electronic monitoring by April 17, 2006 the undersigned shall then consider whether or not to revoke the terms and conditions of pretrial release in this matter.

**IT IS THEREFORE ORDERED:**

1. That the defendant's conditions of pretrial release as set forth in the orders filed March 29, 2006 and June 14, 2005, not modified by other orders, shall remain in full force and effect.
2. This matter shall be set for hearing on April 17, 2006 to determine if the defendant has obtained a residence suitable for electronic monitoring. Should the defendant, at that time, not obtain such a residence, then the undersigned will consider whether or not to revoke all terms and conditions of pretrial release of the defendant in this matter.

Signed: April 16, 2006



Dennis L. Howell  
United States Magistrate Judge

